



BILLING CODE: 8070-01-P

FEDERAL HOUSING FINANCE AGENCY

[No. 2014-N-14]

Privacy Act of 1974; Systems of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of the establishment of new systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended (Privacy Act), the Federal Housing Finance Agency (FHFA) gives notices of two new proposed Privacy Act systems of records. The two new proposed systems are: Suspended Counterparty System (FHFA-23); and Employee Adverse Action and Disciplinary Records System (FHFA-24). The Suspended Counterparty System will contain information that FHFA will use to implement the Suspended Counterparty Program by which the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the twelve Federal Home Loan Banks (Banks) (hereafter, collectively, “regulated entities” or individually, “regulated entity”) are required to report to FHFA when they become aware that an individual or institution and any affiliates thereof, who are currently or have been engaged in a covered transaction with a regulated entity within three years of when the regulated entity becomes aware of covered misconduct, have engaged in fraud or other financial misconduct.

The Employee Adverse Action and Disciplinary Records System will contain information on current or former FHFA employees who have been disciplined or had a performance-based action taken against them; who have a proposed disciplinary or performance-based action against them; or who are or have been suspected of misconduct.

DATES: To be assured of consideration, comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. These two new systems of records will become effective on [INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless comments necessitate otherwise. FHFA will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA only once, identified by “2014-N-14”, using any one of the following methods:

- Agency Website: www.fhfa.gov/open-for-comment-or-input.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at RegComments@fhfa.gov to ensure timely receipt by the agency. Please include “Comments/No. 2014-N-14” in the subject line of the message
- Hand Delivered/Courier: The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/No. 2014-N-14, Federal Housing Finance Agency, 400 Seventh Street, S.W., Eighth Floor, Washington, DC 20024. The package

should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

- U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service: The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/No. 2014-N-14, Federal Housing Finance Agency, 400 Seventh Street, S.W., Eighth Floor, Washington, DC 20024.

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: For the Suspended Counterparty System: Tasha Cooper, Associate General Counsel at (202) 649-3091; for the Employee Adverse Action and Disciplinary Records System: Kakeisla Qaasim at (202) 649-3743; or David A. Lee, Senior Agency Official for Privacy, privacy@fhfa.gov, (202) 649-3803 (not toll free numbers), Federal Housing Finance Agency, 400 7th Street, SW, Washington DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. COMMENTS

Instructions: FHFA seeks public comments on the two proposed new systems of records and will take all comments into consideration before issuing the final notice. See 5 U.S.C. 552a(e)(4) and (11). In addition to referencing “Comments/No. 2014-N-14,” please reference the title and number of the system of records your comment addresses: “Suspended Counterparty System (FHFA-23),” or “Employee Adverse Action and Disciplinary Records System (FHFA-24).”

Posting and Public Availability of Comments: All comments received will be posted without change on the FHFA web site at <http://www.fhfa.gov>, and will include any personal information provided, such as your name, address (home and email) telephone number and any other information you provide. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at 202-649-3804.

II. INTRODUCTION

This notice informs the public of FHFA's proposal to establish and maintain two new systems of records. This notice satisfies the Privacy Act requirement that an agency publish a system of records notice in the Federal Register when there is an addition to the agency's system of records. It has been recognized by Congress that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. The Director of FHFA has determined that records and information in these two new systems of records are not exempt from requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to paragraph 4c of

Appendix I to OMB Circular No. A-130, “Federal Agency Responsibilities for Maintaining Records About Individuals,” dated February 8, 1996 (February 20, 1996; 61 FR 6427, 35), FHFA has submitted a report describing the two new systems of records covered by this notice, to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget.

The proposed new systems of records described above are set forth in their entirety below.

FHFA-23

SYSTEM NAME:

Suspended Counterparty System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or by individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information about individuals who are suspected of or have been found to have engaged in fraud or possible fraud or who are suspected of or have been found to have engaged in other financial misconduct.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name, address, Social Security number, date of birth, professional license number or other identifying information, type of sanction, date of sanction, court or agency responsible, description of misconduct, affiliate information (name, address, professional license number or other identifying information, description of how the affiliate is related to the subject), online profile or account information, and information pertaining to criminal prosecutions, civil actions, enforcement proceedings, and investigations resulting from or relating to fraud or suspected fraud or other financial misconduct. Such records may also include information on individuals: (a) who have been referred to FHFA for possible suspension; (b) who are currently or have been engaged in a covered transaction with a regulated entity within three years of when the regulated entity becomes aware of the covered misconduct; or (c) who are affiliates of such persons or institutions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained pursuant to 12 U.S.C. 4513(a)(2) and 12 CFR part 1227.

PURPOSE(S):

The information in this system of records will be used by FHFA to implement the Suspended Counterparty Program. Under the Suspended Counterparty Program the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the twelve Federal Home Loan Banks (Banks) (hereafter, collectively, “regulated entities” or individually, “regulated entity”) are required to report to FHFA when they become aware that an individual or institution and any affiliates thereof, who are currently or have been engaged in a covered transaction with a regulated

entity within three years of when the regulated entity becomes aware of the covered misconduct, have engaged in fraud or other financial misconduct. Such implementation includes reviewing the reports submitted and any additional information needed to make a determination of whether action is needed by FHFA to limit the risk of the regulated entities continuing to do business with the individual or an institution, or in order to protect the safe and sound operation of the regulated entities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the

appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, interns, and others performing or working on a contract, service, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil

discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA
2. Any employee of FHFA in his/her official capacity;
3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or
4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic format, paper form, and magnetic disk or tape. Electronic records are stored in computerized databases. Paper and magnetic disk, or tape records are stored in locked file rooms, locked file cabinets, or locked safes.

RETRIEVABILITY:

Records may be retrieved by name, address, email address, telephone number, Social Security number, professional license number, type of sanction, court or agency responsible for sanction, person who referred the individual or entity to FHFA, or some other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained and who have agreed to maintain the confidentiality and integrity of the information.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedule and FHFA Records Retention and Disposition Schedule. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Office of General Counsel, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024, or privacy@fhfa.gov in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct requests for access to a record to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or privacy@fhfa.gov in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct requests to contest or appeal an adverse determination for a record to the Privacy Act Appeals Officer, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024, or privacy@fhfa.gov in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Information is provided by the subject of the record, the Federal Home Loan Banks, Fannie Mae, Freddie Mac, the Office of Finance, FHFA and FHFA-OIG, Federal and State financial regulators, and members of the public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FHFA-24

SYSTEM NAME:

Employee Adverse Action and Disciplinary Records System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or by individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FHFA employees who have been disciplined or had a performance-based action taken against them; who have a proposed disciplinary or performance-based action against them; or who are or have been suspected of misconduct.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include case files and documents related to adverse actions and performance-based actions not covered under the types of records set forth in the Office

of Personnel Management's (OPM) Privacy Act System of Records Notice (OPM/GOVT-3 Records of Adverse Actions, Performance Based Reduction in Grade and Removal Actions, and Termination of Probationers) or any successor system of records notice. The case file may include the individual's name, address and other personally identifiable information; documents related to disciplinary or adverse actions or performance-based action such as: letters of expectations, leave restriction letters, written counseling letters, reprimands, suspensions, adverse actions, appeals, correspondence, management requests for assistance, evidentiary materials (such as supporting documents, witness statements), employee replies or responses, regulatory or legal information, hearing notices, reports or investigations, agency decisions, reversals of the action, settlement agreements, and appeal records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301 et seq.; 5 U.S.C. 4311 et seq.; 5 U.S.C. 7101 et seq.; 5 U.S.C. 7501 et seq.; 5 U.S.C. 7511 et seq.; 5 U.S.C. 7541 et seq.; and 5 CFR parts 293, 315, 432 & 752.

PURPOSE(S):

The records in this system are maintained to document proposed and final agency actions/decisions on disciplinary actions, adverse actions, and performance-based actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, interns, and others performing or working on a contract, service, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative

body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA
2. Any employee of FHFA in his/her official capacity;
3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or
4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None, except as may be authorized under OPM/GOVT-3, or under 5 U.S.C. 552a(b)(12) when attempting to collect a claim of the United States Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in controlled access areas. Buildings where records are stored have security cameras and 24-hour security guard service. Records are maintained

in electronic format, paper form, and magnetic disk or tape. Electronic records are protected by restricted access procedures, including user identifications and passwords. Paper and magnetic disk, or tape records are stored in locked file rooms, locked file cabinets, or locked safes. Only FHFA staff whose official duties require access are allowed to view, administer, and control these records

RETRIEVABILITY:

Records may be retrieved by the employee's name or other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained and who have agreed to maintain the confidentiality and integrity of the information.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules and FHFA Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Human Resources Management, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024, or privacy@fhfa.gov in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct requests for access to a record to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or privacy@fhfa.gov in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct requests to contest or appeal an adverse determination for a record to the Privacy Act Appeals Officer, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20024, or privacy@fhfa.gov in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Individuals about whom the records pertain, witnesses, supervisors, co-workers, contractor personnel, counselors, and others, along with related documentation and correspondence from relevant individuals or entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 13, 2014.

Melvin L. Watt,
Director, Federal Housing Finance Agency.

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